Application No. 09/898,568
Amendment dated August 21, 2006
Response to NNC Amend dated July 20, 2006

Atty. Docket No. 42.P11139
Examiner Vu, Tuan A.
TC/A.U. 2193

Remarks

Applicants respectfully request reconsideration of the present U.S. Patent application as amended herein. Claims 1, 2, 7, 8, 20, 21, 23, 24 have been amended. Claims 13-17 are withdrawn and claims 18 and 19 are cancelled. New claims 25 and 26 have been added, hence claims 1-12 and 20-26 are active, of which claims 1, 7, 20, 23 and 25 are independent.

35 USC §112

Regarding the continued §112 objections to claims 2, 8, 16, 21, 24, the undersigned apologizes for the continued claim language confusion. The general idea is trying to articulate that a success/failure indicator may be provided by an application program installer, and that this indicator (in some amended embodiments) may be a false positive, e.g., success is reported when in fact the installation was not successful.

To address the Office's continued §112 concerns, independent claims 1, 7, 13, and 23 and claims 2, 8, 16, 21, 24 have been amended such that it is believed the objections are now moot. In particular, independent claims 1, 7, 13, and 23 have all been amended to recite the program installer provides an indicator identifying at least success or failure of the applying the update where this indicator is used in dependent claims 2, 8, 16, 21, 24 regarding determining a false positive installation. Dependent claim 21 was amended to include this indicator feature instead of independent claim 20.

The undersigned appreciates the Examiner's issues with the previously suggested "providing a determination by the application program installer indicating whether said applying the updates was a successful installation" language. However, if

the present amendments do not resolve the §112 concerns, the Examiner is respectfully

requested to contact the undersigned to discuss the present matter **on record** as if a

formal request for a conference was requested by the undersigned.

35 USC §103

Claims 1-22 remain rejected as being obvious over Basani (U.S. Patent No.

6,748,447) in view of Mathur (U.S. Patent No. 5,008,814) and Araujo (U.S. Publication

No. 2001/0047406).

The undersigned again apologizes for the difficulty in articulating the inventive

concept in the claims. Essentially, various recited embodiments utilize a multi purpose

application program installer such as Microsoft's "MSI" application program (hereafter

generally "installer") to update hosted network resources. This is **not** the normal use for

an installer. An installer is called "multi-purpose" herein because, as will be appreciated,

many different specific installation purposes may be determined for the installer through

use of particular configuration description data controlling operation of the installers.

It was realized by Applicant that these multi-purpose installers could be used to

update hosted resources if those resources were artificially treated as if they were an

application program to be updated by an installer. Towards this end, in the amended

recited embodiments, a configuration is determined that treats hosted network

resources **as if** they were an "application" that is updateable by an installer.

As discussed previously, Basani appears to provide a comprehensive discussion

of a proprietary system of machines used to distribute content updates, e.g. see the col.

5 and 6 discussion of the CCM application (col. 5 line 22 et seq.), GLs (line 45 et seq.),

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BESs (line 47 et seq.), and col. 6 paragraph lines 38-49 and paragraph lines 50-62.

However, even though Basani and recited embodiments seek to update hosted network resources, they do so in entirely different ways; it is respectfully submitted Basani is **not** teaching the use of a multi-purpose installer, such as MSI, as recited. Instead Basani teaches a comprehensive but proprietary environment that performs their specific updating purpose their specific way, e.g., through use of the CCM, GL, BES, etc.

In the Examiner Response to Arguments in ¶5(b), it appears the Examiner understands the distinction Applicant tries to make between a multi-purpose application program installer such as MSI, and the techniques disclosed by Basani, but the Examiner notes the claims lack sufficient limitations to limit their scope to use of a multi-purpose installer such as MSI (see Action ¶5(B): "the limitation recited as 'application program installer' is not specific sufficiently to clearly distinguish from a software executable enabling an update as disclosed by Basani's CCM-based distribution and update system").

To clarify inventive intent and address the Examiner's comment, the claims have been reworded. **Claim 1**, for example, now recites:

> providing an update for altering network resources of a customer being hosted on one or more hosting servers of a hosting service;
>
> selecting a first server of the hosting servers;
>
> backing up a starting configuration of the first server;
>
> **determining a configuration for a multi-purpose application program installer to perform the update, the configuration** *treating said hosted network resources as if they were an application program* **updatable by said installer;**
>
> utilizing the multi-purpose application program installer to apply the update to the network resources of the customer on the first server **and provide an indicator identifying at least success or failure of the applying the update; and**

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determining whether to restore the starting configuration of the first server with a
backup-restore application program **based at least in part on the indicator**.

Emphasis added to indicate new claim language. It is believed these amendments

recite the multi-purpose aspect of the installer sufficiently to clarify intent to recite a MSI-

type of installer, which is different than Basani. It is also particularly noted that the

amendment includes the limitation of "treating said hosted network resources as if they

were an application program" – this limitation is not taught or suggested by Basani as

best this reference is understood. It is further submitted the deficiencies of Basani are

not cured through combination with Mathur or Araujo (as best these references are

understood), hence it is submitted the §103 rejection of claim 1 is overcome.

Independent **claims 7, 20, and 23** have also been amended to recite

"determining a configuration for the multi-purpose…installer…treating hosted network

resources of the customer as if they were an application updatable by said multi-

purpose installer." For the reasons discussed above for claim 1, it is submitted the §103

rejection of these claims has been overcome as well.

Independent **claims 7 and 23**, and dependent **claim 21** also recite the installer

provides "an indicator of success or failure of performing an update according to the

configuration," where configurations, as discussed above, treat hosted resources as if

an updatable application program. As discussed above for claim 1, it is believed the

documents of record fail to teach or suggest the recited indicator and hence these

claims are not obvious when considered over the documents of record. The determining

to restore the starting configuration is also made dependent on the success indicator.

Claim 2 as amended recites "determining the application program installer incorrectly provided a false-positive indicator of a successful installation of the update, and responsive thereto, restoring the starting configuration of the first server with the backup-restore application program." It is respectfully submitted the documents of record relied on by the Office fail to teach or suggest the recited determining false positive successful installations. Regarding the reference to Basani at col. 19 for a rollback function, it is respectfully noted Basani does not indicate a rollback is done due to an unsuccessful installation; it is simply a feature to remove an update if desired.

It is believed the §103 rejection of claim 2 is overcome. Corresponding "false-positive" limitation amendments have been made to claims 8, 21, and 24, hence they are believed allowable for at least the same reasons as claim 2.

Regarding **claims 13-19**, claims 13-17 have been withdrawn for the time being to allow focusing on the allowability of other claimed embodiments; system claims will be reintroduced later. Claims 18-19 have been cancelled.

Regarding the rejection of dependent claims not discussed, it is believed the rejection of these is moot in light of the foregoing amendments. Further, it is submitted these claims are also allowable for at least the reason as depending from allowable base claims.

Regarding new claims 25 and 26, these are proposed variations of claims 1 and 2, but where the restoring the starting configuration in claim 25 is responsive to determining an operating system for an updated machine has become corrupted

incident to the updating (see, e.g., Specification page 7, line 11), and hence it is rolled

back to its previous (pre-update) state. Applicant believes these new claims are not

taught or suggested by the documents relied on by the Office.

Regarding the finality in Office Action ¶6, it appears this is an erroneous

reference from the previous Office Action. This response is not being filed responsive to

a final action, since non-final status is indicated in Office Action Summary Status 2a.
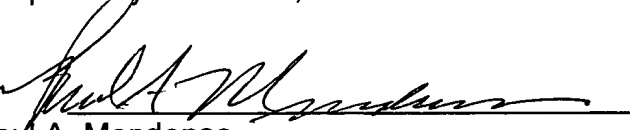
Conclusion

For at least the foregoing reasons, it is believed the amendments have rendered

all rejections moot and claims 1-12 and 20-26 are therefore in condition for allowance;

such action is earnestly solicited.

Please charge any shortages and credit any overcharges to our Deposit Account

number 02-2666.

Respectfully submitted,

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